514, subclass 2;

III. Claim 28, drawn to a method of using a regulatory peptide having at least one of cell growth and cell differentiation activity to make a pharmaceutical composition, classified in class 514, subclass 2;

IV. Claim 29, drawn to a method of using a regulatory peptide having at least one of cell growth and cell differentiation activity to induce synthesis of acetylcholinesterase mRNA, classified in class 514, subclass 2;

V. Claims 31-33, drawn to an antibody against a regulatory peptide having at least one of cell growth and cell differentiation activity, classified in class 530, subclass 387.1+;

VI. Claims 34-35, drawn to a method of using an antibody to diagnose blood-related disorders, classified in class 530, subclass 387.1+;

VII. Claims 36-37 drawn to a method of using an antibody to diagnose male infertility, classified in class 530, subclass 387.1+;

VIII. Claims 38-46, 52, 54-57, and 63, drawn to an in vitro method for screening central nervous system affecting candidate drugs in a non-cell mixture, classified in class 530, subclass 350;

IX. Claims 38, 40, 47-51, 53, 54-57, and 63, drawn to an in vitro method for screening central nervous system affecting candidate drugs in a cell mixture, classified in class 530, subclass 350;

X. Claims 58-63, drawn to an in vivo method for screening central nervous system affecting candidate drugs, classified in class 514, subclass 2; and

XI. Claims 64-65, drawn to a method of treating a stress-induced condition, classified in class 514, subclass 2.

The Examiner asserted at the inventions of Groups I and II-IV and VIII-XI are related as product and process of use. Inventions in this relationship can be shown to be distinct if (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used to in a materially different process of using that product, as set out in MPEP §806.05(h). The Examiner alleged that the proteins of Group I can be used as biological markers, in immunoassays, binding assays or as a class of control.

The Examiner alleged that the proteins of Group I are related to the antibody of Group V by virtue of being the cognate antigen necessary for the production of antibodies, yet distinct because the protein can be used in another and materially different process from the production of the antibody, such as in a pharmaceutical composition or to assay or purify the natural ligand of the protein, or in assays for the identification of agonists or antagonists of the receptor protein.

The Examiner stated that the proteins of Group I are distinct from the methods of Groups VI-VII because the proteins of Group I are neither required in the method steps of Groups V-VII nor made by the method steps of Groups V-VII.

The Examiner further alleged that the methods of Groups II-IV, V-VII, and VIII-XI are independent from one another because no

Group requires the same components or stapes as the other Groups.

The Examiner further stated that the inventions of Groups V and VI-VII are related as product and process of use. Inventions in this relationship can be shown to be distinct if (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used to in a materially different process of using that product, as set out in MPEP §806.05(h). The Examiner alleged that the antibodies of Group V can be used for protein detection or purification, in Western blot, and in ELISA.

The Examiner also alleged that the antibodies of Group V are independent from the methods of Groups II-IV and VIII-XI because the antibodies are not required or made in/by the method steps of Groups II-IV and VIII-XI.

In response, applicants hereby elect, with traverse, the claims of Group I, specifically claims 1-17.

Applicants, however, respectfully request that the Examiner reconsider and withdraw the restriction requirement. Under 35 U.S.C. §121, restriction may be required if two or more independent and distinct inventions are claimed in one application.

First, the inventions of the cited Groups are not independent. Under MPEP §802.01, "independent" means there is no disclosed relationship between the subjects disclosed. Group 1 claims a regulatory peptide. Group II claims a method of using a regulatory peptide. Group III claims a method of using a regulatory peptide to make a pharmaceutical composition. Group IV claims a method of using a regulatory peptide to induce synthesis of acetylcholinesterase mRNA. Group V claims an antibody against a regulatory peptide. Group VI claims a method

of using an antibody to diagnose blood-related disorders. Group VII claims a method of using an antibody to diagnose male infertility. Group VIII claims an in vitro method for screening central nervous system affecting candidate drugs in a non-cell mixture. Group IX claims an in vitro method for screening central nervous system affecting candidate drugs in a cell mixture. Group X claims an in vivo method for screening central nervous system affecting candidate drugs. Group XI claims a method of treating a stress-induced condition. Thus, Groups I-XI are necessarily related. The Applicants therefore maintain that the claims of these cited Groups are not "independent".

Furthermore, under MPEP §803, there are two criteria for a proper restriction requirement: 1) the invention must be independent or distinct (discussed above), and 2) there must be a serious burden on the Examiner if restriction is required. MPEP §803 unambiguously provides that "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent and distinct inventions." Applicants respectfully submit that there would not be a serious burden on the Examiner if restriction is not required between Groups I and II because a search for prior art material to the patentability of the claims of Group I would necessarily turn up the prior art material to the patentability of the claims of the remaining Group. Since there is no burden on the Examiner to examine Groups I and II together in the subject application, it is therefore submitted that the Examiner should examine the claims of both Groups on the merits.

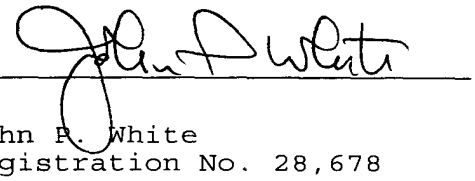
SUMMARY

In view of the foregoing, applicants maintain that the July 25, 2003 restriction requirement is not proper under 35 U.S.C. § 121 and respectfully request that the Examiner reconsider and withdraw the requirement.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.

No fee is deemed necessary in connection with the filing of this Response. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,



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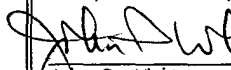

8/21/03

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Date